

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CHARLES DEMPSEY, individually, and
L.D., by her father and natural guardian,
CHARLES DEMPSEY,

Plaintiffs,

Case No. 19:cv:6780

v.

THE CITY OF ROCHESTER, a municipal entity,
JAVIER ALGARIN, ADAM GORMAN, "JOHN DOE" RPD
OFFICER RESPONSIBLE FOR TRAINING JAVIER ALGARIN,

Defendants.

Deposition Upon Oral Examination of:

Charles R. Dempsey III

Location: City of Rochester Law Department
City Hall, Room 400A
30 Church Street
Rochester, New York 14614

Date: October 3, 2023

Time: 9:30 a.m.

Reported By: SANDRA C. HEWLETT, RPR
Alliance Court Reporting, Inc.
109 South Union Street, Suite 400
Rochester, New York 14607



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A P P E A R A N C E S

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* * *



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S T I P U L A T I O N S

TUESDAY, OCTOBER 3, 2023;

(Proceedings in the above-titled matter
commencing at 9:43 a.m.)

* * *

IT IS HEREBY STIPULATED by and between the
attorneys for the respective parties that this
deposition may be taken by the Defendants at this time
pursuant to notice;

IT IS FURTHER STIPULATED, that all
objections except as to the form of the questions and
responsiveness of the answers, be reserved until the
time of the trial;

IT IS FURTHER STIPULATED, that pursuant to
Federal Rules of Civil Procedure 30(e)(1) the witness
requests to review the transcript and make any
corrections to same before any Notary Public;

IT IS FURTHER STIPULATED, that if the
original deposition has not been duly signed by the
witness and returned to the attorney taking the
deposition by the time of trial or any hearing in this
cause, a certified transcript of the deposition may be
used as though it were the original;

IT IS FURTHER STIPULATED, that the
attorneys for the parties are individually responsible



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2 for their certified transcript charge, including any
3 expedite or other related production charges in
4 accordance with Rochester Rules;

5 AND IT IS FURTHER STIPULATED, that the
6 Notary Public, SANDRA C. HEWLETT, RPR, may administer
7 the oath to the witness.

8 * * *

9 CHARLES R. DEMPSEY III,
10 called herein as a witness, first being sworn,
11 testified as follows:

12 EXAMINATION BY MS. JONES:

13 Q. Good morning.

14 A. Good morning.

15 Q. My name is Peachie Jones. I'm an attorney
16 for the City of Rochester, as you know. I thank you
17 for being here today so I can take your deposition.

18 So you were here yesterday for your
19 daughter's deposition, so you know the same ground
20 rules, but I will still go over them. So you can ask
21 me any questions if you have them.

22 We have you placed under oath which means
23 you have to tell the truth, the whole truth. Like I
24 said yesterday, you're not offending anybody. Please
25 be honest so that we can have a good record for the



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2 corner. It's very old.

3 Following that fence line, there is a
4 flowering -- there is two flowering bush -- bushes. I
5 think a -- purple and white flowers. Along the fence
6 line continuing is -- you know, there are other
7 flowers. Tulips come up and stuff like this.

8 There is a walkway, an old walkway that --
9 like sidewalk bricks kind of, like concrete. Along
10 the fence there. And there is another -- there is a
11 cherry tree continuing north. Along my neighbor's
12 chain-link fence there is a cherry tree. And then
13 past the cherry tree is another bush that makes these
14 white flowers in like late July, August. I don't know
15 the name of that either. But I always appreciated
16 that. And that's right along the back of my house of
17 which -- like right where the bush is, is -- is a door
18 to which -- which enters the basement of my home.

19 And then just, you know, a few feet from
20 there that begins my back porch. The porch continues
21 until the -- the other side of my house where -- at
22 that point, at the other side of the porch is a stairs
23 that you come down and -- in an eastward direction.

24 And then the yard encases the land between
25 my next neighbor's house, which is then, you know,



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2 continuing from -- if I was to be on the porch facing
3 south. We're now referring to my left and that would
4 be my neighbor's house which is larger than my house
5 as far as depth. So at my back porch, my neighbor's
6 house continues.

7 Um, there is a space in between the two
8 homes that's fenced in. So that would -- that would
9 include that in the yard.

10 And along that space is a sidewalk. And
11 there's a -- a fence at the front of that. And then
12 it's my neighbor's house. And then my neighbor has a
13 wooden fence, like a taller-than-me wooden fence that
14 covers his -- entire property line between mine and
15 his home going all of the way back to the -- the metal
16 fence that was -- that I started talking about with
17 the bush.

18 Q. Uh-huh.

19 A. And inside of the center of the yard was a
20 tree that has since collapsed. My friend told me not
21 to let that ivy grow up the tree. "It's not good for
22 it."

23 I was like, "Hey, it looks cool."

24 Sure enough. Ivy is not, you know, good
25 for a tree's health and that tree fell.



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2 Q. When did that tree fall down?

3 A. It was Halloween. I don't remember which
4 year exactly. But I remember it being Halloween
5 because it was scary.

6 Q. Was it standing at the time of the
7 incident with Tesla?

8 A. I don't recall.

9 Q. Was there anything else in your yard
10 besides a tree?

11 A. Yeah.

12 Q. What else was in your yard?

13 A. Are we referring to at the time of the
14 incident or are we referring to like over the years?
15 I spent a long time in that yard.

16 Q. Sure. We can talk about at the time of
17 the incident.

18 Was there anything inside your yard?

19 MR. SHIELDS: Objection.

20 A. There would have been -- obviously there
21 would have been the -- all of the stuff that we played
22 with the dog. She would scatter toys and favorite
23 sticks. There was a nice chunk from the cherry tree.
24 She would find that in a foot of snow.

25 There was a stone circle of which I would



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2 Q. Did you have a brace on your hand on the
3 day of the incident?

4 A. A brace, like a medical brace? Is that
5 what you mean?

6 Q. Yes.

7 A. No.

8 Q. What had you been doing earlier that day?

9 MR. SHIELDS: Objection.

10 A. Are you referring to like that morning?
11 Did I shampoo and wash my hair? Or are you referring
12 to like in the moments before?

13 Q. In the few hours before the incident.

14 A. It was -- my daughter's birthday was that
15 weekend and I was preparing to take her out and she
16 wanted to go to this haunted house that was -- it was
17 Halloween time in October. It is kind of the thing to
18 do. And I was, you know, just doing my household
19 routine sort of during the day. And I keep just
20 drawing on. I will just tell you.

21 I remember after LD had come home, I
22 was -- I had just started to prepare food before I had
23 gone outside and the officer shot my dog. And you're
24 asking more about what I was doing before then. And
25 I -- I just keep going back to that, to the stove.



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2 Just a routine day.

3 Q. So what were you doing immediately
4 before -- so how did Tesla get outside?

5 A. From the back door?

6 Q. Yes.

7 How did the back door open? Who opened
8 the back door?

9 A. I opened the back door.

10 Q. Why did you open the back door?

11 A. To exit.

12 Q. Were you -- are you saying that you were
13 leaving the back door?

14 A. Yes.

15 Q. Why were you going outside?

16 A. Because I was intending on having a
17 cigarette.

18 Q. Did you know that Tesla was around you?

19 A. Yes.

20 Q. Was Tesla in front or behind you? Or I
21 guess alongside you?

22 MR. SHIELDS: Objection.

23 Q. So I guess where in -- where was Tesla in
24 relation to you?

25 MR. SHIELDS: Objection.



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2 A. At what point?

3 Q. When you first opened the door.

4 A. In order for me to open the door, I would
5 have been in front of her. And then when I opened the
6 screen door -- which was her habit of then clearing
7 the yard of squirrels and birds -- she had passed me
8 at that point.

9 Q. Was it your understanding that Tesla was
10 going outside to clear the yard of birds and
11 squirrels?

12 A. That's correct. Until --

13 Q. Did you see anyone in the backyard when
14 you opened the -- I will take a step back.

15 Did you see anyone in the backyard before
16 you opened the screen door?

17 A. No.

18 Q. Had the main door to the house, the
19 non-screen door -- had it been shut before you opened
20 the screen door?

21 A. To exit?

22 Q. Yes.

23 A. Yes. I had to open it before I had...

24 Q. You had to open both doors to get outside?

25 A. That's correct.



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2 Q. When did you first see the officer in your
3 backyard?

4 A. After I myself had stepped down from the
5 house level to the porch level.

6 Q. Where was Tesla when you first saw the
7 officer?

8 A. The bottom of the stairs, around the
9 corner of the porch. At which point I tried to tell
10 the officer that it was fine. And that she would be
11 okay.

12 Q. So what did you do or say after you saw
13 the officer?

14 A. I shouted that she -- "She's fine. It
15 will be okay."

16 Q. You said all of those words?

17 A. Yeah. I don't recall the precise word
18 that I said, but I do recall saying "She's fine"
19 because that's what I would say to everyone and I
20 followed it up with a statement like "It's okay."

21 That officer was too quick to just grab
22 his gun and fire it. I didn't -- there wasn't any
23 time for any communication. I'm sorry for raising my
24 tone.

25 Q. Where did Tesla go after you opened the



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2 door? Well, she went down the stairs.

3 Where did she go -- after Tesla went down
4 the stairs?

5 MR. SHIELDS: Objection.

6 A. Into the yard.

7 Q. Did Tesla head towards any specific part
8 of the yard?

9 A. Towards the center of the yard.

10 Q. From your perspective, did Tesla run
11 towards the officer?

12 A. When you exit the porch down the stairs,
13 there's a wall, which is my neighbor's house and you
14 only have the option of going into the center of the
15 yard or back where you came. So the officer, being in
16 the center of the yard, was in the direction that she
17 went.

18 Q. When you say "center of the yard," are you
19 meaning center east to west as opposed to north/south?

20 A. Yes.

21 Q. Were you normally outside when Tesla would
22 chase squirrels and birds?

23 MR. SHIELDS: Objection.

24 A. Are you asking if I was normally outside
25 when I let Tesla outside? That was her routine. I



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2 would be outside with her if I was outside to play
3 fetch or to have a cigarette. Then yes. Was I
4 outside every time she went outside? No.

5 Q. Have you been outside on multiple
6 occasions with Tesla when she is clearing the yard of
7 squirrels and birds?

8 A. Yes.

9 Q. Can you describe her behavior when she
10 clears the yards of squirrels and birds, just
11 generally speaking?

12 MR. SHIELDS: Objection.

13 A. She sort of runs in the direction of the
14 squirrel, which was usually in the direction of the
15 tree, and then do a half circle around the tree and
16 realize that she had once again been duped by
17 squirrels.

18 Q. So when you were describing your backyard
19 earlier, you named a lot of trees.

20 So -- any particular tree that she would
21 run in the direction of?

22 A. The one in my memory reference -- I'm
23 referring to is the chestnut tree, which is the
24 largest in the yard.

25 Q. I thought you said the chestnut tree was



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2 Tesla to the veterinarian sooner?

3 MR. SHIELDS: Objection.

4 A. Honestly, there was a part of me that
5 really thought Animal Control would show up and be
6 able to help me.

7 Q. And what did you believe that Animal
8 Control was going to assist you with?

9 A. First aid kit the officers were refusing
10 to help me with. And perhaps a ride to the Animal
11 Hospital.

12 Q. Did you ask for those things from Animal
13 Control when they arrived?

14 A. Yeah.

15 Q. What did Animal Control say?

16 A. "We'll give you a dirty blanket."

17 That's not what she said verbatim. It is
18 just...

19 Q. Did the Animal Control Officer communicate
20 anything else?

21 A. I don't recall that -- the exact
22 conversation I had with the Animal Control Officer. I
23 believe that they told me which Animal Hospital to go
24 to, I think. Somebody told me which Animal Hospital
25 to go to.



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2 Q. Which Animal Control hospital were you
3 told to take Tesla to?

4 A. The one that is -- well, was -- it
5 recently closed. But it was near -- is on East
6 Henrietta Road.

7 Q. Were there any other reasons that you
8 didn't take Tesla to the vet sooner? You were trying
9 to stop bleeding. Thought Animal Control would help.
10 You felt frozen for a little bit.

11 MR. SHIELDS: Objection.

12 A. I was surrounded by the officers that were
13 collected en masse around me and was just like a -- I
14 was -- I didn't feel safe to just get up and grab my
15 dog and go grab my keys and leave. I didn't -- I
16 didn't -- I didn't feel comfortable with that for some
17 time.

18 Q. Prior to this incident with Tesla, have
19 you had any negative interactions with the police?

20 MR. SHIELDS: Objection.

21 A. Throughout my life?

22 Q. Yes. At any point in your life.

23 A. Could you describe the depth of
24 "negative"? Because unfavorable -- is that what you
25 mean? Or more like just...



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2 Q. Why don't you give me an example of a
3 negative interaction and then I'll ask some follow-up
4 questions.

5 MR. SHIELDS: Objection.

6 Q. Have you had any negative interactions
7 with police in your lifetime?

8 MR. SHIELDS: Objection.

9 A. I don't recall.

10 Q. Have you had any interactions with police
11 in your lifetime that contributed to the fear or
12 discomfort that you felt on the day of the incident
13 with Tesla?

14 A. No.

15 Q. So your feelings and interpretations of
16 the officers' conduct were based on their conduct that
17 day during that incident?

18 A. In that moment, correct. Yes.

19 Q. What -- do you know the name of the
20 veterinarian that provided care to Tesla when you
21 arrived at the Animal Hospital?

22 A. I do not.

23 Q. Do you have records of Tesla's veterinary
24 care that she received at that Animal Hospital?

25 MR. SHIELDS: Objection.



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2 A. I don't believe.

3 By "records," you mean like receipts and
4 paperwork from the hospital?

5 Q. Yes.

6 A. Tesla was cremated and they were kind
7 enough to making like a paw print -- I don't know if
8 you're aware what that is, but they take a paw print
9 and press it into like a clay. And I have -- I know
10 that there is papers with those prints, but I don't
11 know if they're actual medical records or just
12 associated with that. But I know that there is
13 paperwork that I have there.

14 Q. Do you have any receipts about the cost of
15 the cremation?

16 A. No.

17 Q. How much did the veterinary care that
18 Tesla received at the Animal Hospital cost?

19 A. I don't recall.

20 Q. Do you have any sort of estimate?

21 A. No.

22 Q. You can't tell me whether it was 500 or
23 5,000?

24 A. No.

25 Q. Are you seeking to be reimbursed for the



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2 veterinary care that Tesla received on that day?

3 A. The people at the veterinary hospital were
4 so touched by the traumatic -- of the situation that
5 they had granted me a -- a -- they had given me like a
6 grant that they had or some sort of -- they had a --
7 they used money that was donated.

8 Q. So did you pay any out-of-pocket costs for
9 the veterinary care provided to Tesla on the day of
10 the incident?

11 A. To the Animal Hospital?

12 Q. Correct.

13 A. No.

14 Q. Did you pay for the cremation of Tesla?

15 A. No.

16 Q. Did you talk to anyone at the Animal
17 Hospital about Tesla's veterinary care that day?

18 A. Yes.

19 Q. Who did you talk to?

20 A. The staff. I don't know any names.

21 Q. Do you know the position of the staff
22 members?

23 A. There is front desk and there is behind
24 the door. That is about as close as I could get.

25 Q. What did -- what was the name of the



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2 individual that was at the front desk that you spoke
3 to?

4 A. I do not recall.

5 Q. What did the person at the front desk tell
6 you?

7 A. She was sorry. She was just at work.

8 Q. How many people did you talk to that were
9 quote/unquote "behind the door"?

10 A. Two, maybe three.

11 Q. Could you distinguish between
12 veterinarians versus vet techs versus assistants of
13 those two to three people?

14 A. No. I mean I don't know. I'm sure they
15 each had their own job roles, but I don't recall who
16 was who and what was what.

17 Q. What did those people tell you about
18 Tesla -- Tesla's condition?

19 A. She had multiple wounds and that there was
20 still a bullet inside of her. They told me that to
21 remove it would be an extensive surgery and that she
22 had lost significant blood and that -- that they --
23 there was a period where I was alone and they came
24 back and they said that if we were to proceed, that
25 you -- you would be on the hook for the bills that



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2 would exceed \$15,000. And at that time that was more
3 money than I had ever had. It -- so that was an
4 impossible figure.

5 And I asked him if there was like any, you
6 know -- if there was another way or -- or like -- that
7 person told me that -- I asked them, "So you're
8 telling me that she's going to die from this?"

9 And that person told me, "Yes."

10 And so then -- so then they included to
11 put her down, that they would -- it would be best to
12 have her go down than to suffer this blood loss.

13 Q. I'm sorry.

14 Did you say that there would be more blood
15 loss through the surgery?

16 A. Yeah. When -- when you do surgery on an
17 animal or person, you cut them open. There is lost
18 blood. That's not what I said, but I would agree.

19 Q. I'm sorry. I was trying to understand
20 your last statement where you said they said it was
21 better to put her down than to suffer a blood loss.

22 A. The bullet had traveled into her organs.
23 There were internal wounds that were bleeding that
24 couldn't be addressed with gauze that I was
25 requesting. And it required an expensive surgery and



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2 that was a low-percentage chance already. I remember
3 asking, "What are the chances?"

4 Q. Chances of surviving?

5 A. Of survival. They told me it was low and
6 if she did come through, she would never walk -- she
7 would never be the same.

8 Q. Did the employees at the Animal Hospital
9 tell you anything else about the location of the
10 bullet?

11 A. There was multiple bullets. They did --
12 when they x-rayed, they told me there was one inside
13 of her still, I believe. From what I recall.

14 Q. Yes. So sorry I was unclear.

15 I was asking if there was additional
16 communication about the bullet that was still inside
17 of Tesla.

18 A. I -- I feel like that was part of the
19 previous conversation that I just was referring to in
20 the last question.

21 Q. Okay. So there is no additional details?

22 A. That was such a blur. I just remember
23 crying in the parking lot.

24 Q. Did the employees at the Animal Hospital
25 talk to you about the blood loss from Tesla?



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2 A. Yes.

3 Q. What did they say other than she lost a
4 lot of blood?

5 A. The reason why she lost blood was gunshot
6 wounds.

7 Q. They said that?

8 A. Yeah.

9 Q. Did they say anything else about the blood
10 loss?

11 A. I don't recall. I remember them saying
12 that at first they were worried it was worse and then
13 they were -- it -- I -- I don't know the specifics
14 about the blood loss conversation.

15 Q. Would the surgery have had a higher chance
16 of success if she hadn't lost as much blood?

17 A. I'm not a veterinarian.

18 Q. Did they --

19 A. I would assume.

20 Q. Did they mention anything specifically
21 about whether the chance of success of the surgery was
22 related to her prior blood loss?

23 A. I do remember that that was part of the
24 risk of the surgery, was the blood loss. I remember
25 that being -- I mean you are asking me about a



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2 conversation that I had in the room four years ago
3 that I blocked out of my memory. So I don't -- I
4 don't recall.

5 Q. Yeah. That's fine. I just need to know
6 what you do remember. So that's why I'm asking that.

7 Have you ever -- you said you're not a
8 veterinarian, but have you taken any veterinary
9 classes?

10 MR. SHIELDS: Objection.

11 A. No. I mean I don't know what veterinary
12 classes is titled. Everyone has to take English 101.

13 Q. When you were at MCC, did you take
14 something like a vet tech class?

15 A. No. That is why I answered "No."

16 Q. Have you taken a first aid class?

17 A. I have had first aid training for -- I
18 have never taken a class.

19 Q. When was the first aid training?

20 A. Well, we learned first aid in the Boy
21 Scouts. You know. And the Elementary School that I
22 went to, you know, they had a -- they had this
23 traveling health professor that would come to the
24 classrooms and gave us a basic first aid lesson. When
25 I was in middle school we learned CPR, first aid.



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2 You know, you get trained to ask
3 permission before you help somebody at the scene.
4 Stuff like that. I just -- but those are instances
5 that I can recall.

6 Q. When you were -- I think you described it
7 as shielding Tesla.

8 When you were laying with her in that
9 portion of the yard, do you remember how many wounds
10 there were on Tesla?

11 A. She had blood coming from her face by her
12 ear. And she had -- I remember that there were two
13 wounds on her chest. And then there was another
14 that -- I want to say I was trying to hold three
15 different spots on her body.

16 Q. Was blood oozing out -- I think that's the
17 word you used -- from all three of those spots?

18 A. There was blood coming in all those spots.
19 Earlier when I used the term "ooze," it was a
20 reference to at one point I had released and there was
21 an ooze, like -- like the pressure had built up from
22 me stopping the blood from coming out and when I
23 released there -- I used the word "ooze" sort of.

24 Q. Like a gush?

25 A. Like a gush.



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2 Q. Was blood coming out prior to you applying
3 pressure to the wounds?

4 A. Yes. She left a trail of blood.

5 Q. Earlier you said that you could hear blood
6 in her lungs.

7 How do you know that that is what you were
8 hearing?

9 A. I spent a lot of time cuddling with the
10 dog, laying my head on her body. Laying her -- her
11 laying her head on my body. I had heard her breathe
12 in the past. I knew what it sounds like. I was
13 comfortable with the sound. I could fall asleep to
14 it.

15 And laying in the dirt, with my body, I
16 could hear the "hawk." I could hear the -- I could
17 hear the difference. I could hear the "hawk." I
18 can't verbalize a word for that. I could hear the
19 (sound representation).

20 Q. A raspiness or is it called a glottal?

21 MR. SHIELDS: Gurgling?

22 Q. Yes.

23 Like a gurgle?

24 A. It -- it was different. It -- it sounded
25 like water in a place where it shouldn't be. Or



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2 fluid.

3 Q. Did you stay at -- scratch that.

4 How long were you at the Animal Hospital?

5 A. Until it was pretty dark out. I don't
6 know the time. It was October, so it gets dark around
7 7. I was probably -- I was there for some time. Even
8 after they had -- I didn't know what to do afterwards.
9 My daughter had been taken to her grandmother's house
10 so I knew she was safe. I didn't want to go home. I
11 didn't know where to go.

12 Q. Where did you sleep that night?

13 A. I slept at a friend's house.

14 Q. How many -- well, when did you next sleep
15 back at Kosciusko Street?

16 A. Probably near November. It had to be
17 almost November at that point. I would say a long
18 week, maybe eight or nine days from that point.
19 Maybe.

20 Q. Did you miss any work because of the
21 incident?

22 A. I did.

23 Q. How many shifts did you miss?

24 A. I missed the rest of that week.

25 Q. And --



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2 A. Well, it was -- it was Friday and then --
3 I remember I called in and then called again. I don't
4 recall how many days specifically I had called into
5 work. But -- again, this is like four years ago.

6 Q. Did you use paid leave for those absences?

7 A. I don't recall. If I had the sick time,
8 I'm sure they gave it to me, but I don't recall.

9 Q. Are you seeking to be compensated for your
10 missed work because of the incident?

11 MR. SHIELDS: Objection.

12 A. You're asking if I'm asking to be paid for
13 my hourly wage that I missed? Is that what you're
14 saying?

15 Q. Or -- yeah. Yeah.

16 Are you seeking to be compensated for
17 that? If so, I need to figure out how much that is.

18 So -- so are you seeking to be compensated
19 for the work you missed at -- or having to use your
20 paid leave for that time period?

21 MR. SHIELDS: Objection.

22 A. I never returned to work the same. From
23 that.

24 Q. Is that a "yes," "no" or "I need to think
25 about it"?



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2 A. Yes.

3 Q. You work for the same employer as you did
4 in 2018?

5 A. Yes.

6 Q. Do you know who at work you would contact
7 to get a copy of your attendance and/or pay records
8 for that time period?

9 A. Human Resources with the United Parcel
10 Service.

11 Q. Is there a particular person in Human
12 Resources you would contact?

13 A. Not whose name I know off the top of my
14 head.

15 MS. JONES: Okay. It's 12:45. We can
16 stop for lunch since we're well past noon.

17 Off the record.

18 (There was a discussion off the record.)

19 (The proceedings recessed at 12:45 p.m.)

20 (The proceedings reconvened at 1:48 p.m.;
21 appearances as before noted.)

22 CHARLES R. DEMPSEY III, resumes;

23 CONTINUING EXAMINATION BY MS. JONES:

24 Q. Did you have a chance to talk to your
25 attorney over break?



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2 A. Yes.

3 Q. Did you want to add anything to your
4 answers that we had before lunch or since we started
5 this morning?

6 A. No.

7 Q. So your attorney just emailed me some
8 documents.

9 Do you recognize these? Do you recognize
10 these documents?

11 A. The header appears to be from the
12 veterinary hospital.

13 Q. Have you seen these documents before?

14 A. That looks like a -- it looks familiar.

15 Q. Okay.

16 MR. SHIELDS: For the record, I forwarded
17 an email from the veterinary emergency hospital of
18 records that we just got from the veterinary emergency
19 hospital during the lunch break.

20 Q. Did you request these records from the
21 veterinary hospital?

22 A. Yes.

23 Q. When did you request these records from
24 the veterinary hospital?

25 A. We just got them.



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2 Q. Is there -- when did you request these
3 records from the veterinary hospital?

4 A. We just made a phone call to request them.

5 Q. Like earlier today?

6 A. Yes.

7 Q. Is this location still open?

8 A. Um, I believe they're in the process of
9 changing that.

10 Q. So I thought earlier you said that the
11 veterinary hospital you took Tesla to is now closed?

12 A. In the news it was mentioned that the
13 emergency services for veterinary care there was
14 shutting down and that was the last option for people
15 in the City of Rochester area. That's why it was
16 newsworthy.

17 Q. When did you read that in the news?

18 A. That was a few -- that was a few weeks
19 ago. Maybe about a month or more.

20 Q. So you saw it was shutting down?

21 A. Yeah. I didn't like go into depth, but I
22 recall --

23 Q. Did you know -- or do you know if the
24 location is -- scratch that.

25 Is this the location of the veterinary



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2 hospital that you took Tesla to?

3 MR. SHIELDS: Objection.

4 A. "This" in reference to?

5 Q. The --

6 A. I can't see what you're --

7 Q. Sure. I have the same records up I had a
8 minute ago.

9 Is this the name of the hospital that you
10 took Tesla to on the date of the incident?

11 A. Yeah. I believe so.

12 Q. Okay. Okay. I will show you a body-worn
13 camera video. So this is a video of -- well, we have
14 his name as Lindauer, L-I-N-D-A-U-E-R.

15 I'm going to show you this video because
16 it depicts again that part of -- where you were
17 holding Tesla in the corner of your yard. And I would
18 like you to identify -- if it is in this video -- the
19 point where you felt -- I forget the words you used --
20 like surrounded -- not barricaded.

21 Do you know what I'm referring to? I
22 forget the word you actually used.

23 A. I understand what you're referring to.

24 MR. SHIELDS: Objection.

25 Q. So what word do you want to use for that



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2 time where you felt enclosed, kept?

3 A. That my liberties were impeded on --

4 Q. Yes.

5 A. -- to freely roam on my property?

6 Q. Yes.

7 You felt like you couldn't leave; is that
8 fair?

9 A. I would assume the entirety of the video
10 before you play it, but --

11 Q. Okay. So -- so I will play it and we'll
12 see where we get to.

13 (The video was played.)

14 Q. Okay. So this is the officer's body-worn
15 camera.

16 Again, I have turned up the sound a little
17 bit. This is a video ending in 00:15. I've skipped
18 it ahead to 17 seconds in the video. Right now the
19 time stamp in the lower right-hand corner is 17:31:41.
20 I'm just going to play it for a bit. And if there is
21 ever a point in this body-worn camera video where you
22 felt like your liberties were -- as you say -- you
23 weren't at liberty to leave, let me know.

24 (The video was played.)

25 A. May I?



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2 Q. I'll pause it.

3 A. I can't see.

4 Q. Oh, sorry.

5 A. Thank you.

6 (The video was played.)

7 Q. So he did take a few steps towards you
8 though. He's walking.

9 (The video was played.)

10 Q. Okay. So I paused it at -- at 57 seconds
11 into the video. 17:14:22 is the time stamp.

12 So he has gotten a little closer to you.
13 Are you feeling like you're not at liberty to leave at
14 this point?

15 MR. SHIELDS: Objection.

16 A. That's correct. There is an officer
17 standing over looking at me -- right there in the
18 video -- in the top left corner of the fence who's
19 looking down on me.

20 Q. So it is not maybe this officer that's
21 making you feel --

22 A. You're asking me about my feelings.

23 And that officer is approaching me into a
24 corner. So he is cornering me.

25 Q. So this officer at this point in time,



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2 given his location and the combination of the officer
3 looking over the fence, that's what's making you feel
4 like you cannot leave?

5 A. At that point in time, I'm trying to find
6 help.

7 Q. No. I -- I just want to -- so I feel like
8 you're not answering my questions clearly. I'm trying
9 to make sure I'm understanding you correctly.

10 So am I understanding you correctly when I
11 say this officer in this position right here at
12 17:14:22, in combination with the officer looking over
13 the fence, makes you feel like you are not free to
14 leave?

15 MR. SHIELDS: Objection.

16 A. Yeah.

17 Q. So I will push play.

18 (The video was played.)

19 Q. Okay. So I don't -- I paused it at
20 1:39:17:15 because he starts blocking his body-worn
21 camera with his arm. I'm going to scoot forward.

22 Okay. So I scooted the video forward to 2
23 minutes into the video at 17:15:24. And I'm going to
24 push play again because we can actually see again.

25 (The video was played.)



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2 the same way. We have talked about it on the highway.

3 Like, "Oh, yeah. I remember" -- just you
4 remember -- and then sad, sad, sad. Just kind --

5 Q. You don't take Savannah to the dog park?

6 A. Not to that doing park, no.

7 Q. Anything else you would like to share
8 about how Tesla's death has affected you or your
9 family?

10 A. I stopped inviting people to my home after
11 that.

12 Q. You mentioned that you didn't have people
13 at the fire pit anymore.

14 A. Yeah. Which, you know -- I stopped
15 engaging with people who were close to me at that
16 time, just entirely. And -- you know, because of
17 that, those relationships drift on and, you know,
18 apart. And I don't have those relationships that I
19 had before anymore.

20 I really prided myself in helping my
21 elderly neighbors back then. And I just -- I watched
22 them die over the years and -- and I could have spent
23 more time helping them with their last years if I
24 hadn't been so secluded in my -- just...

25 I have a really hard time getting rid of



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2 things from back then. With example, my car.

3 Q. Hmm.

4 A. I have gotten a new vehicle, as you asked.
5 Yes, I have fewer flashbacks of the dog in the mirror
6 in that vehicle.

7 Q. In the new vehicle?

8 A. In the new vehicle. But I can't bring
9 myself to get rid of the old vehicle because it's one
10 of the last pieces of Tesla I have left.

11 I'm still afraid to go into the yard
12 without inspecting it. I -- I'm afraid to step
13 outside of my house without making sure that there is
14 not somebody out there that might kill me. That's not
15 a comfortable feeling to have. It's not.

16 I don't even -- I found myself afterwards
17 that I would -- I -- I found myself drawn deeply to
18 like -- for example, like a Facebook friend that
19 shared a picture of them with their dog. I -- I found
20 myself so happy for them that they had that in their
21 life. And I -- I get emotional sometimes when I
22 don't -- I don't get to -- when I'm left alone in
23 these thoughts of, you know, I should have taken that
24 bullet and, you know, what could -- how could I
25 have -- could I have carried her into the home away



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2 from them? Could -- could I -- what could I have done
3 differently?

4 Did I have to have that cigarette? I
5 smoke cigarettes. I smoke a lot of cigarettes in a
6 year. Every time I light a cigarette -- not every
7 single time I light a cigarette, but frequently, while
8 I'm smoking a cigarette, I think about should I have
9 had that cigarette?

10 You know, I was cooking little -- you
11 know, you ever have a cocktail wiener or, you know,
12 like a smoked sausage, small smoked sausage? We were
13 cooking those. I have not purchased those. I avoid
14 that entire section in the Wegmans grocery with the
15 baloney and the ham. That -- I avoid that entire
16 section of the grocery store.

17 Sometimes I stare at it. When I end up
18 there, I just stare at it. Why?

19 I -- I have been affected by loss of Tesla
20 every single day and I can continue to name these
21 things throughout the evening if that is what you
22 would like. But it exceeds what I have said.

23 MS. JONES: I don't have any more
24 questions.

25 MR. SHIELDS: I just have a few.



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1 CHARLES R. DEMPSEY III - BY MR. SHIELDS

2 EXAMINATION BY MR. SHIELDS:

3 Q. Before the officer entered your yard, did
4 you give him permission to enter your yard?

5 A. No.

6 Q. If the officer had walked to your front
7 door, knocked and explained the situation that they
8 wanted to enter your yard to search in your yard,
9 would you have given the officer permission?

10 A. If he had knocked on my door and garnered
11 my attention and asked for permission to enter, would
12 I have told him yes?

13 Q. Yes.

14 A. Yes.

15 Q. Before the officer entered your yard, did
16 he make any kind of announcement or warn you that he
17 was going to enter your yard before he entered your
18 yard?

19 A. No. I was unaware of his presence.

20 Q. Earlier, Ms. Jones showed you the
21 body-camera video and the moment when the officer had
22 pointed his gun at you and then he put it down by his
23 side.

24 In the video, you weren't able to actually
25 see the officer holster his gun; correct?



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2 MS. JONES: Objection.

3 A. Correct.

4 Q. So just by watching the video, there is no
5 way to tell when the officer actually holstered his
6 gun; correct?

7 MS. JONES: Objection.

8 A. Yes.

9 Q. From your memory of the incident, do you
10 remember exactly when the officer holstered his gun?

11 A. By "exactly," do you mean like
12 order-of-event exactly?

13 Q. Like --

14 A. Sorry.

15 Q. So in the video what you see is the
16 officer pointing his gun at you and then putting it
17 down by his side.

18 Could the officer have held the gun at his
19 side for some portion of time before he re-holstered
20 it?

21 MS. JONES: Objection.

22 A. Time was moving very slowly at that point.
23 He could have.

24 Q. Okay. Sounds like you don't remember
25 exactly when he holstered the gun, if it was



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2 immediately after he put it down by his side, if he
3 held it there for a while before holstering his gun or
4 not?

5 MS. JONES: Objection.

6 A. Right. I can't recall.

7 Q. Okay. Ms. Jones asked you a series of
8 questions about why you didn't bring Tesla to the
9 Animal Hospital sooner.

10 One of those reasons was because the
11 officers told you that Animal Control was coming to
12 your home, correct?

13 MS. JONES: Objection.

14 A. Yes.

15 Q. And was another reason because you didn't
16 feel you were free to leave when you were surrounded
17 by the officers?

18 MS. JONES: Objection.

19 A. Yes.

20 Q. And Ms. Jones asked you why you didn't go
21 inside to see LD.

22 Was -- would LD have seen your shirt
23 covered in blood if you had gone inside at that point?

24 MS. JONES: Objection.

25 A. Yes.



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2 Q. Is another reason that you didn't leave
3 Tesla to go inside and see LD because you were afraid
4 that Tesla would bleed out and die?

5 MS. JONES: Objection.

6 A. I was afraid of blood coming out of her
7 and causing her death, yes.

8 Q. Did you stop taking the Prozac because the
9 side effects were worse than the benefits or something
10 else?

11 A. Yes. I -- I -- I felt like it was more of
12 a negative than a positive.

13 Q. Was that the same with the Celexa?

14 A. Yeah. I mean I -- I stopped the Celexa
15 because I ran out of Celexa and I was hoping that I
16 could go on without it.

17 Q. Your deposition was previously scheduled
18 about a year ago, correct?

19 A. Yes.

20 Q. Did you watch the -- the video at that
21 time in preparation for the previously scheduled
22 deposition?

23 A. I believe I did.

24 Q. How did that make you feel?

25 A. Angry, confused, upset. I -- I felt



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1 CHARLES R. DEMPSEY III - BY MR. SHIELDS

2 like -- in this moment right now I'm reflecting on the
3 video and I feel anger.

4 Reflecting on it made me feel really sad
5 about myself.

6 Q. When you say it makes you feel sad about
7 yourself, is one of the reasons because of how
8 emotional you are in the video?

9 MS. JONES: Objection.

10 A. Yeah. I was -- it made me feel like I
11 wasn't who my ego thinks I was. Not the man I thought
12 I was, I guess. You know, I gave -- I gave my best
13 "Hey" voice and they treated me like some kid.

14 Q. Were you raised to view a man's role as
15 being strong and stoic and not expressing emotion?

16 MS. JONES: Objection.

17 A. My father was a marine and he raised me.
18 I was born a few years after he, you know, had left
19 the Marines. So he had used I lot of what he learned
20 in the Marines to raise me on. And being strong,
21 protective. That just was -- that was an example that
22 I had.

23 Q. In June 2019, there was a custody order
24 granting you and Felicia, your daughter's mother,
25 joint custody; correct?



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2 MS. JONES: Objection.

3 A. Yes.

4 Q. So it's not like you had to give Felicia
5 permission to see LD, correct?

6 MS. JONES: Objection.

7 A. Yes.

8 Q. Earlier one of the things that you said in
9 response to one of Ms. Jones' questions about your
10 daughter was that it wasn't until several years had
11 passed that you had an honest discussion about what
12 happened with LD and that she told you that she tried
13 to -- I think the words you used were "keep within her
14 struggles."

15 So my question is do you mean that she
16 held in her emotions about the incident?

17 MS. JONES: Objection.

18 A. We withdrew the detail -- we held back the
19 details of the moment and the after moment and how we
20 felt. I mean yeah. She held in her emotions. She
21 held in -- we didn't talk about what we felt because
22 we both felt broken-hearted. It was hard to share
23 that without coming right to the surface and I'm
24 choked up now referring to it. I mean -- staring in
25 the eyes of my daughter and feeling the same way.



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2 It's even harder.

3 Q. And another thing that was said in
4 response to Ms. Jones' questions is that you --
5 something like you felt bad about not being able to
6 help LD process her feelings about the incident
7 because you were dealing with your own feelings about
8 the incident.

9 Is that accurate?

10 A. Yes.

11 Q. And do you think that is something that
12 affected your relationship with LD?

13 A. I do. I do.

14 Q. And Ms. Jones had asked you why you had
15 gone to see your primary care physician for a period
16 of time, I believe, between maybe after you were
17 prescribed the Celexa to present or something like
18 that.

19 Is the reason you didn't go see your PCP
20 in that time period because you simply weren't sick?
21 You didn't have a reason to go see your PCP?

22 MS. JONES: Objection.

23 A. Yeah. I said before that I had gone in
24 because I had a really bad cold and I didn't go spend
25 time with my PCP because -- when I was a kid, you



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2 called a doctor when you break an arm. I did that
3 only once.

4 Q. So you wouldn't just like go regularly and
5 have check-ins with your doctor if you weren't sick or
6 if you didn't have an injury?

7 A. Yes. Yes, I would not.

8 Q. When you became a driver with UPS, did you
9 get training on interacting with dogs?

10 A. I did.

11 Q. When you were a driver with UPS, did you
12 have any weapons or anything else that you would carry
13 to help protect you if you had to interact with a dog
14 on someone's property?

15 A. The UPS uniform includes nothing but, you
16 know, shirt, pants, socks if you're wearing shorts,
17 coat and the -- the UPS diad, which is like -- the new
18 ones are nicer and lighter than the old ones, but --
19 the UPS diad is about --

20 MS. JONES: Like the handheld thing?
21 Handheld thing?

22 A. Yeah. That you would sign for an
23 electronic thing. You would -- that was the only
24 thing that would -- that you would have other than a
25 package that you're carrying.



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